

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

SIERRA ORTIZ,

Plaintiff,

v.

No. _____

PATRICK HOWARD
AND LAS CRUCES PUBLIC SCHOOLS,

Defendants.

**ORIGINAL COMPLAINT FOR DAMAGES
FOR VIOLATIONS OF CIVIL RIGHTS AND STATE TORTS**

Plaintiff Sierra Ortiz through her attorneys, McGraw & Strickland, LLC, (Margaret Strickland) brings this Complaint for damages for violations of civil rights. In support of the Complaint against Defendants, Plaintiff states the following upon knowledge, information and belief:

I. JURISDICTION AND VENUE

1. This is a civil rights claim brought pursuant to 42 USC § 1983 and 42 USC § 1988.
The Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and § 1343.
2. All parties reside in New Mexico and the acts complained of occurred exclusively in Dona Ana County, New Mexico. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b). This Court also has supplemental jurisdiction over the state tort claims pursuant to 28 U.S.C. § 1367 because the acts alleged herein arise out the same transaction or occurrence and/or series of transactions or occurrences.

II. PARTIES

3. Plaintiff Sierra Ortiz is a resident of Dona Ana County, New Mexico.

4. Plaintiff's nineteenth birthday is March 29, 2020.
5. Defendant Patrick Howard was a high school teacher employed at Las Cruces High School and acting under color of law and in the scope of his employment during all relevant times. He is sued in his individual capacity as to the federal civil rights claims and in his official capacity as to the other claims.
6. Defendant Las Cruces Public Schools operates and has complete authority over the public-school system in Las Cruces, New Mexico, including Las Cruces High School.

III. PLAINTIFF'S CLAIMS

7. Protecting children is a foundational part of our society.
8. To protect our children's innocence from sexual predators we must fairly and honestly accept that predators with sexual interests in children exist.
9. People with sexual interests in children often seek professions that give them access to children, including by infiltrating our schools and becoming teachers.
10. The potential that a teacher may prey on our innocent children is known, and school administrations and districts must take steps to protect them from those who betray their teaching profession and victimize their students.
11. Innocent students who are sexually victimized by their teachers do not always realize the situation and seek appropriate help.
12. To protect school children, officials must acknowledge that predators exists, pay attention, take all rumors and complaints seriously, and not allow bias to cause judgment errors.

13. Concerning behavior by a teacher that shows unusual or excessive affection for a student, should not be ignored or easily dismissed.
14. Since 2010, multiple teachers within the Las Cruces School District have been criminally convicted of sexually abusing students, our community's children.
15. Ms. Ortiz is an 18-year-old young lady who attended Las Cruces High School, graduating in 2019.
16. In the 2017-2018¹ school year, when Plaintiff was sixteen years old, Defendant Patrick Howard was one of Ms. Ortiz' teachers.
17. Defendant Patrick Howard has a sexual interest in underage women.
18. Defendant Patrick Howard abused his position/authority as a teacher to groom, molest, and sexually harass his female students.
19. Grooming is establishing a connection and testing boundaries with a child to lower the child's inhibitions with the objective of sexual abuse.
20. Defendant Patrick Howard would give Plaintiff long frontal hugs when he saw her at school.
21. Defendant Patrick Howard would frequently rub the upper/inner part of Plaintiff's thigh in class while "helping" her with her schoolwork.
22. Defendant Patrick Howard touched and molested Plaintiff for his own sexual gratification.
23. Defendant Patrick Howard did not groom or give this inappropriate physical attention to his male students.

¹ The school year started on August 14, 2017 and ended on May 25, 2018. The Defendant groomed, touched, and sexually harassed the Plaintiff from the beginning of this school year until his arrest in March of 2018.

24. Defendant's touching made Plaintiff uncomfortable and unable to focus on her work, but as a sixteen-year-old girl, she was unsure about what to do.
25. When Defendant Patrick Howard touched Plaintiff, she would try to turn or move away to get him to stop, but this did not deter Defendant Patrick Howard.
26. In January 2018, Plaintiff was called into the Las Cruces High School principal's office, because a classmate of Plaintiff's disclosed that Defendant Patrick Howard had sexually assaulted her.
27. Plaintiff told the principal that Defendant had also been touching and sexually harassing Plaintiff.
28. It was at that time that Plaintiff learned that the Defendant was willing to go beyond his routine sexual harassment and commit an assault against underage schoolgirls.
29. As a 16-year-old schoolgirl, Plaintiff was unsure about what her rights were. Like many young victims of sexual crimes/harassment she just tried to move forward.
30. On March 1, 2018, a Dona Ana County Grand Jury indicted Defendant Howard for Criminal Sexual Contact on a minor and battery on two of this Las Cruces High school students.
31. Prior to Defendant Patrick Howard's actions against Plaintiff as described above, officials at LCPS received complaints about Defendant Patrick Howard's sexual behavior towards female students.
32. Prior to Defendant Patrick Howard's actions against Plaintiff as described above, it was obvious from watching the Defendant, that he gave sexual attention to female students.
33. As a result of the Defendants' actions, Plaintiff suffered mental distress. She

developed anxiety, including having panic attacks, for which she required therapy.

COUNT I: CONSTITUTIONAL VIOLATION: Equal Protection

Plaintiff alleges and reasserts all prior paragraphs of this complaint as though fully set forth herein.

34. Plaintiff enjoyed the right to equal protection of the law under the Fourteenth Amendment.

35. Male students at Las Cruces High School were similarly situated to the Plaintiff.

36. The Defendant groomed, molested, and sexually harassed the Plaintiff, and other young women in his class, because they were young women.

37. The Defendant used his authority as faculty at Las Cruces High School to molest the Plaintiff, when she was a minor, for his own sexual gratification.

38. The Defendant's actions were intentional, wanton, malicious and done in disregard of Plaintiff's constitutional rights.

39. At the time of the Defendant's conduct, it was clearly established that an official's abuse of authority for purposes of his own sexual gratification in this way would violate the Equal Protection Clause. *SH.A v. Tucumcari Mun. Schs*, 321 F.3d 1285 (10th Cir. 2003).

40. As a direct and proximate result of Defendant Patrick Howard's unlawful conduct set forth above, the Plaintiff suffered damages as alleged above.

COUNT II: Negligent Operation of a Building

Plaintiff alleges and reasserts all prior paragraphs of this complaint as though fully set forth herein.

41. Las Cruces Public Schools owns and operates Las Cruces High School.
42. Las Cruces Public Schools has a duty to maintain Las Cruces High School for the safety of its students.
43. Las Cruces High School was not safe for students, because Defendant Patrick Howard was employed at the school and allowed to use his position and access to students to groom and molest female students.
44. Defendants Las Cruces Public Schools knew or should have known that Defendant Patrick Howard presented a danger to students attending Las Cruces High School, because they had notice of the sexual attention and behavior Defendant Patrick Howard gave and perpetrated on students.
45. It was foreseeable that Defendant Patrick Howard's actions would continue, and that students would be victimized.
46. Defendant Las Cruces Public Schools took no steps to prevent Defendant Patrick Howard from grooming, molesting, or sexually harassing his students.
47. As a result, Defendant Patrick Howard victimized the Plaintiff.
48. As a direct and proximate result of Defendant Las Cruces Public School's unlawful conduct set forth above, the Plaintiff suffered damages as alleged above.

DEMAND FOR JURY TRIAL

49. The Plaintiff demands a trial by jury.

REQUEST FOR RELIEF

50. Wherefore, Plaintiff prays for judgment as follows:
 - a. Compensatory damages in a currently undetermined amount, including, but not limited to, damages for violations of civil rights, humiliation and

emotional distress.

- b. Punitive damages in a currently undetermined amount.
- c. Reasonable costs and attorney's fees incurred in bringing this action.
- d. Such other and further relief as the Court deems just and proper.

Respectfully Submitted,

"Electronically Submitted"

/s/ Margaret Strickland
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